

MEETING MINUTES

MILPITAS PLANNING COMMISSION Milpitas City Hall, Council Chambers 455 E. Calaveras Blvd., Milpitas, CA

Wednesday, November 8, 2017

- I. PLEDGE OF ALLEGIANCE** **Commissioner Sandhu** called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.
- II. ROLL CALL/ SEATING OF ALTERNATE** **Present:** Commissioners Sandhu, Maglalang, Mohsin, Chua
Absent: Mandal, Madnawat, Ciardella, Morris (all excused)
Alternate Member Chua was seated for voting.
Staff: Brad Misner, Katy Wisinski, Sarah Fleming
- III. PUBLIC FORUM** **Commissioner Sandhu** invited members of the audience to address the Commission and there were no speakers.
- IV. APPROVAL OF MEETING MINUTES** **Commissioner Sandhu** called for approval of the October 25, 2017 meeting minutes of the Planning Commission.
Motion to approve Planning Commission meeting minutes.
Motion/Second: Commissioner Chua/Commissioner Mohsin
AYES: 4
NOES: 0
ABSTAIN: 0
- V. ANNOUNCEMENTS** Planning Director Bradley Misner announced that the application for the Ismaili Cultural Center recently heard by the Planning Commission was appealed and the action will be going on to City Council.
- VI. CONFLICT OF INTEREST** **Deputy City Attorney Katy Wisinski** asked if any member of the Commission had any personal or financial conflict of interest related to any of the items on the agenda.

There were no reported conflicts.
- VII. APPROVAL OF AGENDA** **Commissioner Sandhu** asked if staff or Commissioners had changes to the agenda and there were none.
Motion to approve the November 8, 2017 agenda as submitted.
Motion/Second: Commissioner Mohsin/Commissioner Chua
AYES: 4

**VIII. CONSENT
CALENDAR
NO ITEMS**

IX. PUBLIC HEARING

IX-1 808 S. MAIN STREET – VESTING TENTATIVE SUBDIVISION MAP, SITE DEVELOPMENT PERMIT, CONDITIONAL USE PERMIT AND ENVIRONMENTAL ASSESSMENT – MT16-0001; SD16-0002; UP16-0013, EA17-0006: An application for a Vesting Tentative Subdivision Map, Site Development Permit, Conditional Use Permit and related environmental analysis for the development of 27 residential condominium units and one 1,787 square foot commercial condominium unit on a 1.09 acre site in the Milpitas Midtown Specific Plan area.

Project Planner Sarah Fleming said this item was before the commission at the October 11, 2017 hearing, the applicant has not changed anything regarding the project, and they have provided a supplemental memo outlining the rationale behind their decision, included as Attachment D to the staff report.

Ms. Fleming showed a presentation reviewing the project. At the last hearing there was discussion about whether or not the project adheres to the design standards in the Milpitas Midtown Specific Plan (MMSP) and staff reanalyzed the project against the design standards and have found that the project is consistent. While commercial space is encouraged, there is no minimum amount of commercial space required in a Mixed Use (MXD) zone as the plan is currently written, and residential uses are permitted on the ground floor.

Additionally, since the site is not located in the section of Main Street located between Carlo Street and Sinott Lane, ground level commercial is not a requirement, and the applicant is adhering to the requirements as the plan is written.

Commissioner Mohsin said she had not understood there was no specific requirement for commercial space and said she would have saved the applicant's time and not have them return for another meeting had she known.

Mr. Misner said it is staff's responsibility to make sure the commission understands the legal zoning standards for each project and staff will do a better job of that. The MMSP is somewhat out of date and staff is days away from putting out an RFP to get a consultant to help the city update the plan.

Commissioner Sandhu opened the public hearing.

A resident that lives on Fire Walk, in the condominiums across the street from the project location, said the area is very dense with people and a lot of traffic and cars, and parking is already difficult. He is also concerned with the impact on schools, water and sewer systems, and police and fire services.

Motion to close the public hearing.

Motion/Second: Commissioner Mohsin/Commissioner Maglalang

AYES: 4

NOES: 0

Dan Sell with Swenson asked for the commission's support of the project as it was presented.

Commissioner Maglalang said he had an idea for the project to include commercial space and not require the applicant to spend money on an underground garage. He proposed the ground floor be commercial space, the eight guest parking spaces be used for the upstairs units, and that guest parking be moved to the lot behind the railroad tracks on Hammond Way. Additionally, he recommended the retail space be considered a public benefit and the \$75,000 affordable housing contribution be waived.

Commissioner Mohsin said she did not want to make any deviations to the project or cause hardship for the applicant.

Commissioner Chua said she understands the applicant has conformed with the requirements of the MMSP, and there is no commercial space requirement, but the commission needs to focus on the vision of Main Street, which is commercial space with residential above.

Commissioner Sandhu said commercial space is key to the MMSP, although it may not be a requirement at this time. He expected revisions to this project and will not support it until commercial space is on the entire ground floor.

Commissioner Maglalang wanted to make a motion to approve the project with additional conditions that include his proposal.

Ms. Wisinski said that to the extent the commission is interested in pursuing a different request of the applicant, none of that has been vetted through planning staff and legal review that applications need to go through, and there would still be steps that need to be taken. She said the commission is not in a position to pass a resolution approving a substantially different project and the proposed changes would need to circulate back through Planning, Engineering, Fire and the City Attorney's Office as the magnitude of changes go beyond simple conditions and substantially change the project.

Commissioner Chua asked what the process is for the commission to move forward with Commissioner Maglalang's recommendation.

Ms. Wisinski said the commission is sitting as an advisory body to the City Council and their job is to make a recommendation to either approve or not approve the project before them. If the commission wishes to recommend approval, the documents have been written anticipating that and all of the findings are made. If the commission wishes to recommend denial of the proposed project, the commission will need to walk through the resolution and the findings and help staff understand where they think the grounds of denial are so that staff can change the document because the next step, after tonight's hearing, is for the project to move on to City Council for their consideration. Suggested revisions can be included as suggested direction to the City Council when they consider the project, but the commission is not in a position to rework the entire project.

Commissioner Sandhu motioned to deny the project until commercial space is provided on the entire ground floor.

Motion/Second: Commissioner Sandhu/Commissioner Maglalang

AYES: 3

NOES: 1 Mohsin

Ms. Wisinski said that because the commission's final action is to recommend denial and the documents included in the packet are not written in that format, staff will need direction from the commission as to which findings need to be changed, and help to understand where the commission thinks this project deviates from the findings that are necessary to approve it.

Ms. Wisinski asked the commission to review the findings in the resolution and let her know if they disagree with any of them.

Commissioner Chua referred to Table 1 on page 2 of the resolution, items 2.a-G-2 and 2.a-G-6 which state that the project will provide commercial space. Ms. Wisinski asked how it should be changed and Commissioner Chua said it should include language that there be commercial space on the ground floor of all Main Street development to maintain the vision of the MMSP.

Ms. Wisinski said page 7 of the resolution deals specifically with the MMSP and asked if there are any consistency findings the commission disagrees with or revisions they think are necessary.

Commissioner Sandhu said Policy 3.10 notes ground floor commercial space.

Ms. Wisinski asked if there were further changes the commission wished to recommend that staff make to the final resolution to accurately capture their findings before going to City Council. The commission's direction to staff is to revise the consistency findings to clarify that the commission believes the vision of the MMSP is to include commercial along the first floor and to prohibit residential on the first floor in this area.

Ms. Wisinski said if the commission wished to express further goals or suggestions staff can prepare additional WHEREAS recitals that would be sent to the City Council which would be the vehicle for suggesting a revised project.

An additional recital will be added WHEREAS the Planning Commission has considered this application on two separate occasions and believes it is in the interest of the city to include Commissioner Maglalang's suggestions.

Commissioner Sandhu and Commissioner Chua both disagreed with the recommendation to recognize the first floor space as a public benefit and waive the \$75,000 affordable housing contribution.

The resolution will be changed to a Planning Commission recommendation to City Council to deny this request on the basis of the changed findings, with the caveat that new recitals will be added saying the commission would support approval of the project if the elements that Commissioner Maglalang suggested were included.

Commissioner Mohsin asked when staff anticipates revised conditions for projects

on Main Street. Mr. Misner said that, as mentioned, staff is in the process of putting out an RFP to look at the scope of work for the changes to the plan. Staff will return to the commission with a report once they get a schedule from the consultant and information on what the level of public engagement will be.

X. NEW BUSINESS

NO ITEMS

XI. ADJOURNMENT

The meeting was adjourned at 8:08 PM.

Motion to adjourn to the next meeting.

Motion/Second: Commissioner Mohsin/Commissioner Maglalang

AYES: 4

NOES: 0

*Meeting Minutes submitted by
Planning Commission Secretary Elia Escobar*